



# STATE OF UTAH CONTRACT

1. CONTRACTING PARTIES: This contract is between the following agency of the State of Utah: Department: Transportation Agency Code: 810 Division: Equipment Operations, referred to as (STATE), and the following CONTRACTOR:

Warner Truck Center		
Name		
2167 South 5370 West		
Address		
Salt Lake City	UT	84120
City	State	Zip

## LEGAL STATUS OF CONTRACTOR

- ☐ Sole Proprietor  
☐ Non-Profit Corporation  
☒ For-Profit Corporation  
☐ Partnership  
☐ Government Agency

Contact Person Bob Tibbitts Phone #801-866-4700 Email btibbitts@warnertc.com  
 Federal Tax ID# 870545202 Vendor #91491C Commodity Code #07066

2. GENERAL PURPOSE OF CONTRACT: The general purpose of this contract is to provide:  
 25 ton sliding axle trailer per specifications from bid GL7010
3. PROCUREMENT: This contract is entered into as a result of the procurement process on RX# 810 76300000003, FY2007, Bid#GL7010.
4. CONTRACT PERIOD: Effective date: 08/21/06 Termination date: 08/20/2008, unless terminated early or extended in accordance with the terms and conditions of this contract. Renewal options (if any): Two 1-year renewals. Price is firm for 12 months and annually thereafter with a maximum annual price change of 5%.
5. CONTRACT COSTS: Requirements Contract! Per unit price = \$35,237.00 each, Option #1 add \$700.00, Option #2 add \$1,625.00
6. ATTACHMENT A: Division of Purchasing's Standard Terms and Conditions  
 ATTACHMENT B: Specifications
- Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.**
7. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
- All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
  - Utah State Procurement Code, Procurement Rules, and CONTRACTOR'S response to Bid #GL7010 dated 8/16/2006.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR

STATE

Contractor's signature

Date

Agency's signature

Date

Type or Print Name and Title

Director, Division of Purchasing

Date

Director, Division of Finance

Paul Rottmann

801-965-4078

801-965-4073

prottmann@utah.gov

Agency Contact Person

Telephone Number

Fax Number

Email

## ATTACHMENT A: STATE OF UTAH STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** The Contractor and any and all supplies, services, equipment, and construction furnished under this contract will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State of Utah, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EMPLOYMENT PRACTICES CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract. Automatic renewals will not apply to this contract.
11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
13. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.
14. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
15. **WARRANTY:** The Contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The Contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the Contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable

for any special purposes that the State has relied on the Contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The Contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the Contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

16. **PUBLIC INFORMATION:** Except as identified in writing and expressly approved by the State Division of Purchasing, Contractor agrees that the contract and related Sales Orders and Invoices will be public documents, and may be available for distribution. Contractor gives the State express permission to make copies of the contract, the response to the solicitation, and related Sales Orders and Invoices in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
18. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
19. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card (major credit card).
20. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.
23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
24. **PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-1002, Utah Code Annotated, 1953, as amended).
25. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. Attachment A: State of Utah Standard Terms and Conditions; 2. State of Utah Contract Signature Page(s); 3. State Additional Terms and Conditions; 4. Contractor Terms and Conditions.
26. **ENTIRE AGREEMENT:** This Agreement, including all Attachments, and documents incorporated hereunder, and the related State Solicitation constitutes the entire agreement between the parties with respect to the subject matter, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. The terms of this Agreement shall supersede any additional or conflicting terms or provisions that may be set forth or printed on the Contractor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of the Contractor that may subsequently be used to implement, record, or invoice services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of the State. The parties agree that the terms of this Agreement shall prevail in any dispute between the terms of this Agreement and the terms printed on any such standard forms or documents, and such standard forms or documents shall not be considered written amendments of this Agreement.

## ATTACHMENT B: Specification: 3503 Sliding Axle Trailer

UTAH DEPARTMENT OF TRANSPORTATION  
Equipment Operations  
Steve McCarthy - Equipment Operations Manager

UDOT PURCHASING AGENT: Paul Rottmann  
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Revised: September 1, 2004

### 25 TON SLIDING AXLE TRAILER

#### **PART I: GENERAL CLAUSES AND CONDITIONS**

1. The equipment furnished under this specification shall be the latest improved model in current production, as offered to commercial trade, and shall be of quality workmanship and material. The supplier represents that all equipment offered under this specification shall be new. DISCONTINUED OR DEVELOPMENTAL MODELS ARE NOT ACCEPTABLE.
2. The units shall be completely assembled and adjusted. All equipment, including standard and supplemental equipment, shall be installed, and the units shall be serviced and ready for continuous operation.
3. All parts not specifically mentioned, but are necessary for the units to be complete and ready for operation, or which are normally furnished as standard equipment, shall be furnished by the supplier. All parts shall conform in strength, quality and workmanship to the accepted standards of the industry.
4. The units provided shall meet or exceed all Federal and State of Utah safety, health, lighting and noise regulations and standards in effect, and which are applicable to equipment furnished, at the time of acceptance.
5. It is the intent of STATE to purchase goods, equipment and services having the least adverse environmental impact, within the constraints of statutory purchasing requirements, departmental need, availability, and sound economical considerations. Suggested changes and environmental enhancements for possible inclusion in future revisions of this specification are encouraged.
6. STATE encourages all manufacturers to comply, voluntarily, with the Society of Automotive Engineers (SAE) recommended practices.
7. Measurements will be given in the English system.
8. Failure to provide and comply with Part I of bidder submitted specifications will result in bid(s) being declared non-responsive.

#### **PART II, GENERAL SPECIFICATIONS**

1. SCOPE:  
The intent of this bid is to define the minimum acceptable standards for a 25ton sliding axle trailer. For use in transporting equipment.
2. NOTICE TO BIDDERS:  
Any example shown is listed to show type and class of equipment desired. Bidders are cautioned to read the

## ATTACHMENT B: Specification: 3503 Sliding Axle Trailer

specifications carefully, as there may be special requirements not commonly offered by the equipment manufacturer. Do not assume your standard equipment meets all detailed specifications merely because it is listed as an example. Bidders are cautioned that units delivered to the FOB points, which do not meet specifications in every aspect will not be accepted.

### PART III, DETAILED SPECIFICATIONS, 25 TON SLIDING AXLE TRAILER

#### 1. GENERAL:

- 1.1 Tilt deck style trailer, 25 ton payload capacity concentrated in 16 feet with a 2:1 safety factor to cover shock loading and off-road use rated at 50 mph.
- 1.2 A minimum width of 102 inches.
- 1.3 A minimum overall length of 40 feet.
- 1.4 A maximum deck height of 36 inches loaded in travel position.
- 1.5 The deck length shall be a minimum of 35 feet of flat, usable space.
- 1.6 The load angle shall be a maximum of 8.5 degrees.
- 1.7 The hitch shall be an adjustable pintle type, from 24 to 27 inches with safety chains. Safety chain hooks shall be large enough to fit over 1 ½ inch bar.
- 1.8 The tongue jack shall be a two speed crank style, or a single speed drop-pin type and have a minimum of 10,000 lb. lift capacity.
- 1.9 Width\_\_102"\_\_\_\_  
Length\_\_40'0"\_\_\_\_  
Height\_\_36" LOADED\_

#### 2. FRAME:

- 2.1 The frame type shall be I-beam center frame with 12 inch minimum deep I-beam with 1/2 inch x 6 inch flanges and 3/16 inch web.
- 2.2 The material should be high tensile quality steel, free of defects, 100,000 psi high tensile strength minimum.

#### 3. CONSTRUCTION:

- 3.1 The type of construction shall be center frame or four beam construction.
- 3.2 The beams shall be fabricated I-beam type 100,000 psi minimum yield flange and web constructed of 100,000 psi high-tensile steel minimum.
- 3.3 There shall be web stiffeners located at the high-load points.
- 3.4 The cross members shall be high-tensile 100,000 psi steel I-beams on 12 inch centers.
- 3.5 The decking shall be 1 1/2 inch thick Apitong hardwood fastened with 2 torx screws per cross member.

## ATTACHMENT B: Specification: 3503 Sliding Axle Trailer

- 3.6 The approach plate shall be the knife edge approach plate with light bar and under-ride protection device attached to running gear.

### 4. SUSPENSION:

- 4.1 The suspension shall be H-9700 spring suspension or approved equal.
- 4.2 The capacity shall be the manufacturer's standard for 66,000 lb minimum rating.
- 4.3 The trailer shall include three 20,000 lb axle's.
- 4.4 The wheels shall be steel disc type, painted white.
- 4.5 The tires shall be steel radials 215/75R x 17.5 single load rating of 4,410 lb(minimum) each Goodyear or Michelin.
- 4.6 Shall include a mounted spare tire, mounted in between the longitudinal's in the front of the trailer.
- 4.7 The seals shall be the Stemco type or equal.
- 4.8 To have ABS brake system to meet federal safety regulations.
- 4.9 The shoes shall be 12 ¼ inch x 7 ½ inch air brakes.
- 3.10 The parking brake shall be spring brakes on all axle's with auto slack adjusters.

### 5. DECK TILT:

- 5.1 The deck tilt shall be activated by a hydraulic tilt mechanism.
- 5.2 The sliding axle's shall be activated with a single stage cylinder.
- 5.3 Axle's shall slide full length by use of hydraulic power.
- 5.4 The trailer shall be capable of transporting load with axles in any position.
- 5.5 The hydraulic set up shall be able to operate from truck hydraulics.
- 5.6 The hoses shall have "Parker "FF" Flush Faced Fittings" to be discussed upon bid award.
- 5.7 The trailer shall include stamped metal labels for the hydraulic levers.

### 6. ELECTRICAL:

- 6.1 The electrical requirements shall meet SAE, ICC, and DOT recommended standards.
- 6.2 The type of electrical system shall be the manufacture's standard sealed system.
- 6.3 The trailer plug shall be a Pollack 11-702V or equal and a Cole-Hersee "Store-A-Way" 11750 or equal.
- 6.4 The license plate light shall be heavy-duty.
- 6.5 To have LED lights.

## ATTACHMENT B: Specification: 3503 Sliding Axle Trailer

### 7. ACCESSORIES:

- 7.1 Lashing pockets or lash rings every 4 feet the full length of the trailer.
- 7.2 The mud flaps shall be the anti-sail type with no lettering.
- 7.3 The toolbox shall be the manufacture's standard lockable type.
- 7.4 The toolbox shall be 12 inches high x 48 inches long x 24 inches deep.

### 8. PAINT:

- 8.1 All metal surfaces shall be sand blasted prior to priming and painting.
- 8.2 All auxiliary items like toolboxes, etc. must be painted before installation.
- 8.3 Shall have one coat of primer minimum, 2 coats of black paint to provide a minimum paint thickness of 4 mils.
- 8.4 Paint thickness will be verified at time of delivery.

THE FOLLOWING OPTION'S ARE IN ADDITION TO THE SAME GENERAL SPECIFICATION.

### 9. OPTIONS

<u>OPTION #1</u>	With 35 feet of flat deck length, increase the width to 108 inches. Overall length 40 feet.  <i>Option Price</i> _____ \$700.00 _____
<u>OPTION #2</u>	With 35 feet of flat deck length, increase the width to 120 inches. Overall length 40 feet.  <i>Option Price</i> _____ \$1,625.00 _____

### PARTS AND SERVICE

Bidder shall list source of parts and service of purposed equipment. Service center shall be located in the Salt Lake City area, consideration will not be given to bidders unable to satisfy the Utah Department of Transportation or the Division of Purchasing as to the adequacy of their service facilities and the availability of replacement parts.

### PART IV: DELIVERY, DOCUMENTATION, ACCEPTANCE AND PAYMENT

#### 1) DELIVERY REQUIREMENTS

Delivery shall be within 120 days after receipt of order. At State's option, an extension may be granted, whichever is in State's best interest. Unless a delivery extension is granted for acceptable reasons due to circumstances beyond the vendor's control, liquidated damages of \$20.00 will be deducted from the invoice for every working day after the expiration of the number of days shown on the purchase order until the units are delivered. This provision is not intended as a penalty but as liquidated damages.

- a) Delivery will be at the UDOT STATE headquarters 4501 South 2700 West Salt Lake City, Utah 84119.

## ATTACHMENT B: Specification: 3503 Sliding Axle Trailer

### 2) TRAINING

- a) INSTRUCTION ON SAFETY, OPERATION AND MAINTENANCE: The vendor shall provide the services of a competent, factory-trained, technician thoroughly trained in the use and operation of the units offered to STATE.

Vendor shall provide instruction on safety, operation and preventive maintenance of the units, after the units have been delivered and is ready for operation but prior to payment. The instruction shall include a full demonstration of all units' functions on the unit(s) delivered. Instruction shall identify potentially hazardous situations when working.

- a) LESSON PLAN: The supplier shall furnish a copy of the units manufacturer's approved lesson plan for the instructional training required, within 30 days after award of the purchase order. The lesson plan may be taken from the operator's manual, provided all necessary information is included.

### 3) DOCUMENTATION

- a) Delivery must include Supplier's Invoice, a Copy of Warranty(s) and an Operators Manual for each unit.
  - i) Operators Manual to include check list for data collection start up procedure, check list for data collection shut down procedure, check list for winter storage, check list for return to service.
- b) Delivery must also include two (3) complete sets of parts lists, and two (3) sets of shop (repair) manuals at no additional charge.

### 4) ACCEPTANCE

- a) All equipment ordered with this request will be subject to acceptance inspection and performance testing upon receipt.
- b) Acceptance inspection and performance testing will not take more than five working days, weather permitting.
- c) The vendor will be notified within this time frame of any units that do not comply with the purchase order specifications.
- d) If any units are canceled for non-acceptance, the needed equipment may be purchased elsewhere and the vendor may be charged full increase, if any, in cost and handling.

### 5) PAYMENT

- a) Invoices will not be approved for payment until all of the required spare parts, filters, documentation and manuals have been received and the equipment has been accepted.